

Message Text

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ACTION ARA-10

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TAGS: CASC, SHUM, PINS, ES

SUBJECT: PROPOSED NOTE TO FOREIGN MINISTRY ON HUMAN RIGHTS AND
CONSULAR CONVENTION VIOLATIONS

REFS: (A) SAN SALVADOR 0959; (B) SAN SALVADOR 1085

1. WE PROPOSE TO SEND A NOTE WITH TEXT AS IN PARA 2 TO
THE FOREIGN MINISTRY ON THE CASES OF FATHER
BERNARD SURVIL, REF B, AND MR. TRACY NIELSEN, REF A,
AMERICAN CITIZENS, PROTESTING REPORTED TREATMENT VIOLATING
HUMAN RIGHTS AND ARTICLE 36 OF THE VIENNA CONVENTION
ON CONSULAR RELATIONS, ESPECIALLY TO REQUEST THAT
SALVADORAN AUTHORITIES BE ASKED TO OBEY THE PROVISIONS
OF THE LATTER WITH REGARD TO NOTIFICATION OF RIGHTS RELATED TO
CONSULAR SERVICES. WE BELIEVE THAT THIS NOTE SHOULD BE SENT
AT THIS POINT AND REQUEST DEPARTMENT'S CONCURRENCE AND/OR COMMENT.
IN THE ABSENCE OF REPLY FROM THE DEPARTMENT ON THE QUESTION OF
QTE INDEPENDENT AND IMPARTIAL HEARINGS UNQTE (SEE PARA 5 REFTTEL
B), WE HAVE NOT INCLUDED THAT SUBJECT IN THE NOTE.

2. TEXT OF THE NOTE:

THE CHARGE D'AFFAIRES AD INTERIM OF THE UNITED STATES OF
AMERICA PRESENTS HIS COMPLIMENTS TO HIS EXCELLENCY THE MINISTER
OF FOREIGN RELATIONS OF EL SALVADOR AND HAS THE HONOR TO BRING
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TO THE MINISTER'S ATTENTION INCIDENTS WHICH OCCURRED ON FEBRUARY
14, 1977, AND FEBRUARY 28, 1977, RESPECTIVELY, INVOLVING
THE ARREST AND SUBSEQUENT INCARCERATION OF AMERICAN CITIZENS,
FATHER BERNARD SURVIL AND MR. TRACY NIELSEN.
MR. NIELSEN, A MISSIONARY OF THE CHURCH OF JESUS CHRIST OF
LATTER DAY SAINTS, INFORMED THE EMBASSY THAT HE WAS ARRESTED BY
THE NATIONAL POLICE AFTER HE WAS OBSERVED TAKING PHOTOGRAPHS OF

MILITARY EQUIPMENT AND OF BURNING VEHICLES IN CENTRAL SAN SALVADOR. HE SAID HE HAD BEEN TAKEN TO POLICE HEADQUARTERS AND AFTER INTERROGATION WAS BLINDFOLDED BY TWO MASKED MEN WEARING CIVILIAN CLOTHES. ALSO HE SAID HE HAD BEEN FORCED TO STAND WITH HANDS AGAINST THE WALL BLINDFOLDED FOR OVER AN HOUR. AFTER APPROXIMATELY FIVE HOURS, THE BLINDFOLD, ACCORDING TO HIM, WAS REMOVED AND HE WAS PLACED IN A CELL. HE REMAINED IN CUSTODY UNTIL MARCH 2, WHEN HE WAS ALLOWED TO RETURN TO HIS DWELLING PLACE IN SAN VICENTE. HE TOLD A CONSULAR OFFICER OF THE EMBASSY HE HAD NOT BEEN INFORMED OF HIS RIGHT TO HAVE THE CONSULAR POST INFORMED OF HIS ARREST OR TO COMMUNICATE WITH THE CONSULAR POST. MR. NIELSEN ALSO TOLD THE CONSULAR OFFICER THAT HE ASKED TO CALL HIS MISSION SUPERIOR BUT WAS DENIED THAT OPPORTUNITY AND WAS HELD INCOMMUNICADO.

A SIMILAR INCIDENT IS ALLEGED TO HAVE OCCURRED DURING THE ARREST BY THE NATIONAL GUARD AT OPICO OF THE AMERICAN PRIEST, FATHER BERNARD SURVIL, RECENTLY EXPELLED FROM EL SALVADOR. HE WAS REPORTEDLY BLINDFOLDED, UNDRESSED, HANDCUFFED HAND AND FOOT TO A BED AND LEFT OVERNIGHT IN THAT POSITION.

THIS ALLEGED TREATMENT DID NOT BECOME KNOWN TO THE EMBASSY UNTIL AFTER HIS DEPARTURE FROM EL SALVADOR. FURTHERMORE, FATHER SURVIL ALSO APPARENTLY WAS NOT INFORMED OF HIS RIGHT TO HAVE THE CONSULAR POST NOTIFIED OF HIS ARREST AND TO COMMUNICATE WITH THE CONSULAR POST WHEN ARRESTED BY THE NATIONAL GUARD. IT WAS NOT UNTIL HE WAS TURNED OVER TO IMMIGRATION AUTHORITIES THE NEXT MORNING THAT THE CONSULAR OFFICER WAS NOTIFIED.

UNDER ARTICLE 36, PARAGRAPH 1, SUBPARAGRAPH (B) OF THE VIENNA CONVENTION ON CONSULAR RELATIONS, TO WHICH EL SALVADOR AND LIMITED OFFICIAL USE

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THE UNITED STATES OF AMERICA ARE PARTIES, THE AUTHORITIES OF EL SALVADOR ARE REQUIRED TO INFORM AN ARRESTED AMERICAN CITIZEN WITHOUT DELAY THAT HE HAS THE RIGHT TO HAVE THE CONSULAR POST OF HIS COUNTRY INFORMED OF HIS ARREST AND TO COMMUNICATE WITH THAT CONSULAR POST. IF THE ARRESTED AMERICAN SO REQUESTS, THE CONSULAR POST MUST THEN BE INFORMED, WITHOUT DELAY, AND ANY COMMUNICATION HE ADDRESSES TO THE CONSULAR POST MUST BE FORWARDED, AGAIN WITHOUT DELAY. THE UNITED STATES INTERPRETS COMMUNICATION TO MEAN ORAL AND TELEPHONIC AS WELL AS WRITTEN. THE EMBASSY IS CONCERNED OVER THESE APPARENT VIOLATIONS OF THE RIGHTS OF AMERICAN CITIZENS TO CONTACT THEIR EMBASSY OR CONSULAR POST IN CASE OF ARREST, A RIGHT SECURED SPECIFICALLY BY A MULTILATERAL TREATY TO WHICH BOTH THE UNITED STATES AND EL SALVADOR ARE PARTIES. IT IS ALSO CONCERNED OVER THE REPORTS OF THE UNNECESSARY BLINDFOLDING, FORCED STANDING AND SHACKLING TO A BED. IN NEITHER CASE DID THE BLINDFOLDING AND OTHER REPORTED ACTION APPEAR TO BEAR ANY RELATIONSHIP TO THE INTERROGATION OF THE DETAILED INDIVIDUALS, AND WOULD CONSTITUTE WHAT WE CONSIDER DEGRADING TREATMENT VIOLAT-

ING ARTICLE 5 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS.
THE EMBASSY REQUESTS THAT THE MINISTER BRING TO THE
ATTENTION OF OFFICIALS OF THE NATIONAL POLICE AND NATIONAL GUARD
AND OTHER APPROPRIATE AUTHORITIES ITS CONCERN OVER THESE
INCIDENTS AND THAT MEASURES BE TAKEN TO PREVENT SIMILAR
OCCURRENCES IN THE FUTURE. WE WOULD ESPECIALLY REQUEST
THAT ALL PERSONNEL OF THE SALVADORAN GOVERNMENT WHO MIGHT BE
INVOLVED IN ARRESTS, DETENTION, INTERROGATION, DEPORTATION,
OR OTHER POLICE ACTIONS WITH REGARD TO AMERICAN CITIZENS BE
INSTRUCTED TO RESPECT THE OBLIGATIONS OF EL SALVADOR UNDER
ARTICLE 36 OF THE 1963 VIENNA CONVENTION ON CONSULAR RELATIONS.
THE EMBASSY WOULD ALSO APPRECIATE INFORMATION ON THE SPECIFIC
CHARGES AGAINST MR. NIELSEN AND THE REASON WHY THE EMBASSY WAS
NOT NOTIFIED AT ALL OF HIS ARREST.

END TEXT

3. IF DEPARTMENT'S APPROVAL SHOULD ARRIVE AFTER AMBASSADOR
LOZANO'S RETURN, WE WOULD MAKE THE NOTE FIRST PERSON.
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